

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

GABRIELLE HELENE DURDEN,

Plaintiff,

v.

22-CV-799 (JLS) (HKS)

DNF ASSOCIATES, LLC,

Defendant.



DECISION AND ORDER

Plaintiff Gabrielle Helene Durden commenced this action on April 13, 2022 in New York State Supreme Court, Erie County, alleging state law claims against several defendants related to their alleged conduct in collecting a debt. Dkt. 1-2, at 3. Durden then filed an amended complaint against DNF Associates, LLC only, alleging a violation of the Fair Debt Collection Practices Act (“FDCPA”), as well as state law claims. Dkt. 1-1. Defendant removed the action to this Court on October 24, 2022. Dkt. 1.

Defendant moved to dismiss Durden’s complaint on October 31, 2022. Dkt. 4. Durden cross-moved to remand to state court, and opposed Defendant’s motion to dismiss, on December 16, 2022. Dkt. 9; Dkt. 10. Defendant opposed the cross-motion to remand on December 30, 2022. Dkt. 11.

The Court referred this case to United States Magistrate Judge H. Kenneth Schroeder, Jr. for all proceedings under 28 U.S.C. §§ 636(b)(1)(A), (B), and (C). Dkt.

7. On January 10, 2023, Judge Schroeder issued a Report & Recommendation (“R&R”), recommending that this Court: (1) deny Durden’s cross-motion to remand to state court; (2) grant Defendant’s motion to dismiss Durden’s FDCPA claim; and (3) decline to exercise supplemental jurisdiction over Durden’s state claims. Dkt. 12.

Neither party objected to the R&R, and the time to do so has expired. *See* 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b)(2). A district court may accept, reject, or modify the findings or recommendations of a magistrate judge. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b)(3). A district court must conduct a *de novo* review of those portions of a magistrate judge’s recommendation to which a party objects. *See* 28 U.S.C. § 636(b)(1)(C); Fed. R. Civ. P. 72(b)(3). But neither 28 U.S.C. § 636 nor Federal Rule of Civil Procedure 72 requires a district court to review the recommendation of a magistrate judge to which no objections are raised. *See Thomas v. Arn*, 474 U.S. 140, 149–50 (1985).

Though not required to do so here, this Court nevertheless reviewed Judge Schroeder’s R&R. Based on that review, and absent any objections, the Court accepts and adopts the R&R.

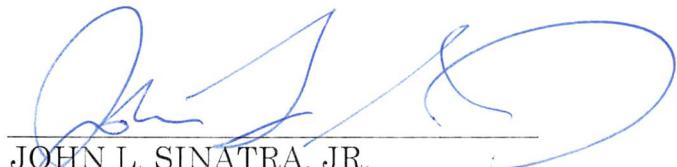
For the reasons stated above and in the R&R, the Court:

- Denies Durden's cross-motion to remand to state court (Dkt. 9);
- Grants, in part, Defendant's motion to dismiss (Dkt. 4); and
- Declines to exercise supplemental jurisdiction over Durden's state claims, pursuant to 28 U.S.C. § 1337(c)(3).

The Clerk of Court shall close this case.

SO ORDERED.

DATED: March 13, 2023
Buffalo, New York



JOHN L. SINATRA, JR.
UNITED STATES DISTRICT JUDGE